

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

175 West Fifth Street, Second Floor, San Bernardino, CA 92415-0490

• (909) 387-5866 • FAX (909) 387-5871

E-MAIL: lafco@lafco.sbcounty.gov

www.sbclafco.org

DATE: OCTOBER 11, 2005

FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #4: Consideration of Exemption for LAFCO SC# 255 – Out-of-Agency Service Contract for Provision of Water Service by County Service Area 70 Improvement Zone J to Territory Within the City of Hesperia

RECOMMENDATION:

Determine that LAFCO SC#255 is exempt from the provisions of Government Code Section 56133 as outlined in Government Code Section 56133 Subsection (e).

BACKGROUND:

In April 2005, the City of Hesperia submitted a letter requesting that the Commission consider an exemption from the provisions of Government Code Section 56133 for areas to be served by County Service Area 70 Improvement Zone J (hereinafter CSA 70 Zone J) within the boundaries of the Hesperia Water District. The areas of consideration are those recently annexed through LAFCO 2952 and LAFCO 2953 and shown on the maps included as Attachment #1. As outlined in the City's letter, included as Attachment #2, this is considered to be an interim step while facilities are installed per the agreements related to annexation applications. Staff forwarded this request to the County Special Districts Department, as administrators for CSA 70 Zone J, since it is the Agency required to request the exemption for the extension of service outside CSA 70's boundaries. During the interim between hearings, staff has worked with the staff of the County Special Districts Department, the City of Hesperia and Hesperia Water District to resolve questions and concerns regarding the processing of this request for exemption.

The relevant exemption language within Government Code Section 56133 (e) reads as follows:

“This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.”

In the present case, staff believes that the exemption outlined above applies to the interim provision of water service by CSA 70 Zone J within the existing boundaries of the Hesperia Water District on the basis of the following findings:

1. The agreements are between the Hesperia Water District, City of Hesperia, and the County Board of Supervisors, as the governing body of CSA 70 Zone J – all public agencies.
2. The public service to be provided is domestic and fire flow water service – services already being provided by an existing public provider.
3. The Hesperia Water District is contracting to have these services provided as an interim measure while it plans and constructs the facilities to assume the water service responsibilities provided by CSA 70 Zone J, as outlined in existing Agreements No. 04-904 and No. 04-905 (copies included as part of Attachment #3).
4. The level of service to be provided through this contractual relationship is consistent with the level of service contemplated by the Hesperia Water District, the existing public service provider, through the Oak Hills Specific Plan jointly adopted by the City of Hesperia and the County of San Bernardino.

On October 5, 2005, a letter signed by Mr. Tom Sutton, Director of the County Special Districts Department, and signed in concurrence by Mr. Mike Podegracz, City Manager of the City of Hesperia and General Manager of the Hesperia Water District, was received outlining the contractual relationship and the timeline to amend the existing Agreements identified as Agreement No. 04-904 and Agreement No. 04-905 (Attachment #3). These amendments will allow for the interim measures of connecting new construction to existing CSA 70 Zone J lines for territory within the Hesperia Water District.

On the basis of the findings outlined above, the staff is recommending that the Commission determine that pursuant to Government Code Section 56133 (e), the contracts between the City of Hesperia/Hesperia Water District and the County of

San Bernardino, on behalf of CSA 70 Zone J, are not subject to the provisions within Government Code Section 56133 requiring review and approval by the Commission.

KRM/

Attachments:

- 1 -- Maps of Areas to be Served and CSA 70 Improvement Zone J
- 2 -- City of Hesperia Letter Dated April 27, 2005
- 3 -- County Special Districts Letter Dated October 5, 2005 with Copies of Agreements No. 04-904 and No. 04-905